



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 5099-99

21 October 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 27 May 1980 for four years at age 21. The record reflects that you were advanced to SA (E-2) on 24 July 1980 and changed your rate upon completion of Personnelman "A" school.

You served without incident until 14 August 1980 when you received nonjudicial punishment (NJP) for consuming alcoholic beverages in the bachelor enlisted quarters. You were subsequently assigned to the USS CONSTELLATION and, on 12 December 1990, you received your second NJP for absence from your appointed place of duty.

On 22 January 1981 you were notified that you were being considered for an administrative discharge by reason of convenience of the government due to creating an administrative burden to the command because of your substandard performance which was not contributory to unit readiness. You were advised of your procedural rights and that you would receive a general

discharge. You declined to consult with counsel or submit a statement in your own behalf. You did not object to the discharge.

On 3 February 1981, the commanding officer recommended that you be discharged for the convenience of the government due to being an administrative burden by reason of minor military infractions and substandard performance. In his recommendation, the commanding officer noted that you had developed financial problems resulting in numerous complaints to the command. You also began to leave your work space for prolonged periods of time without explanation. When restriction was imposed at NJP, you first failed to make required musters and then broke restriction without authorization. Incident to your discharge you were advised that you were ineligible for reenlistment without prior approval of the Chief of Naval Personnel (CNP). On 28 January 1981, you received a general discharge by reason of "burden to command due to substandard performance or inability to adapt to military service" and were assigned an RE-4 reenlistment code.

Regulations authorized the separation of certain individuals in pay grades E-3 and below, who were considered marginal performers because of failure to maintain required proficiency in rate, minor military or disciplinary infractions, and performance which was noncontributory to unit readiness. Regulations further required the assignment of an RE-4 reenlistment code to those individuals.

Individuals discharged by reason of convenience of the government received the type of discharge warranted by the service record. Character of service is based, in part, on military behavior and overall trait averages which are computed from marks assigned during periodic evaluations. Your military behavior and overall trait averages were 2.0 and 2.77, respectively. At the time of your discharge, a minimum average mark of 3.0 in military behavior was required for a fully characterization of service.

In its review of your application the Board conducted a careful search of your service record for any mitigating factors which might warrant a recharacterization of your general discharge. However, no justification for such a change could be found. The Board noted that at the time of your enlistment you were a high school graduate of average intelligence and, at age 21, you were older than the average recruit. It appeared to the Board you possessed the all the requisite qualifications to successfully complete your enlistment. The Board noted your contention that the reenlistment code was not explained to you at the time of discharge. The Board concluded that the assigned reenlistment code and characterization of service were proper given your record of two NJPs in only eight months of service and your

failure to achieve the required average in military behavior. Your contention appears to be without merit since you were advised that you were ineligible for reenlistment. An RE-4 reenlistment code was required for individuals separated due to marginal performance, and means that an individual is ineligible for reenlistment without prior approval from CNP. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director